

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of the Department of Insurance and Financial Services

In the matter of:

**The Recovery Project
Petitioner**

v

File No. 21-1782

**Auto Club Group Insurance Company
Respondent**

**Issued and entered
this 28th day of January 2022
by Sarah Wohlford
Special Deputy Director**

ORDER

I. PROCEDURAL BACKGROUND

On November 24, 2021, The Recovery Project (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of Auto Club Group Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment, products, services, or accommodations under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of physical therapy bills pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Respondent issued bill denials to the Petitioner on September 10 and 29, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on December 14, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on December 14, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on January 4, 2022.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on January 20, 2022.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for nine sessions of physical therapy provided to an individual injured in an automobile accident in 2006. The injured person suffered a spinal cord injury, traumatic brain injury, and a torn rotator cuff. At issue in this appeal are physical therapy sessions provided on July 1, 6, 13, 22, 27, 29, 2021, and August 3, 5, 10, 2021.

With its appeal request, the Petitioner submitted the records of the therapy sessions. In its appeal, the Petitioner stated that the injured person's health issues are complicated and require 24-hour care. The injured person has also developed secondary medical complications which including sacral and left heel wound, chronic cervical and bilateral shoulder pain, and depression.

In its reply, the Respondent stated that the submitted medical records do not support the Petitioner's request. The Respondent also stated that the physical therapy treatment quantity exceeds the ACOEM recommendation guidelines with over 800 physical therapy treatment sessions provided for the 2006 motor vehicle injury.

III. ANALYSIS

Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding overutilization.

The Director assigned an IRO to review the case file. The IRO reviewer is a licensed physical therapist in active practice for 28 years. The IRO reviewer concluded, based on the submitted documentation, that the physical therapy treatments provided to the injured person on the dates in question were not medically necessary in accordance with medically accepted standards as defined by R 500.61(i) and were overutilized in frequency and duration in accordance with medically accepted standards as defined by R 500.61(i). The IRO reviewer wrote:

The patient had approximately 150 massage therapy visits since 10/30/2017, far exceeding the recommended number of visits from ACOEM. There is no documentation that strengthening exercises were intensified as pain decreased and there is no documentation on a progressive home exercise program. The therapist did not document pain levels consistently at each session; when documented, pain was always at higher levels pre-treatment, slightly decreased post-treatment, without any carry over from one physical therapy session to the next. Pain relief was always temporary.

* * *

Comparing data from the last two re-evaluations dated 05/13/2021 and 06/17/2021, the patient did not make any measurable improvements with AROM, strength and functional findings. All measurements were unchanged; score on

FIST test had improved from the initial evaluation to the re-evaluation on 05/13/2021; however, score on 06/17/2021 was decreased back to score at the initial evaluation, without any improvements. The patient did not demonstrate any benefit from skilled physical therapy care and massage therapy sessions.

* * *

The patient had approximately 150 massage therapy sessions over the course of almost 4 years, start date 10/30/2017, far exceeding the recommended number of visits from the ODG. The documentation does not demonstrate any objective improvements in function when comparing the re-evaluations dated 05/13/2021 and 06/17/2021, as well as all daily notes from 07/01/2021 to 08/10/2021. Massage therapy was not helpful in improving function, decreasing pain, or improving quality of life.

* * *

Based on comparative data from 05/13/2021 and 06/17/2021, as well as daily notes from 07/01/2021 to 08/10/2021, the patient demonstrated no further progress towards goals and the physical therapist should have determined the patient was no longer benefiting from skilled physical therapy....

Recommendations: None of the nine physical therapy sessions from 07/01/2021 to 08/10/2021 were medically necessary and all were overutilized in frequency and duration. [References omitted.]


IV. ORDER

The Director upholds the Respondent's September 10 and 29, 2021 determinations.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person's eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

X 

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford